

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Abingdon Division**

JOHN DOE,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
EMORY & HENRY COLLEGE, ¹)	
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant, Emory & Henry College (the “**College**” or “**Defendant**”), by counsel, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, petitions this Court for removal of an action instituted by John Doe (“**Doe**” or “**Plaintiff**”), in the Circuit Court for Washington County which is styled as *John Doe v. Emory and Henry College* (Case No. CL23001531-00) (the “**State Court Action**”). In support of this Notice, Defendant respectfully states as follows:

BACKGROUND

1. On July 31, 2023, Plaintiff commenced this action by filing a Complaint in the Circuit Court for Washington County.
2. In compliance with 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Defendant are attached hereto as **Exhibit A**.

TIMELINESS OF REMOVAL AND VENUE

3. The College was served with process in the State Court Action on August 10, 2023.

¹ Plaintiff incorrectly named Emory and Henry College in his Complaint. The legal entity name for the College is Emory & Henry College.

4. The removal of the State Court Action is timely because, pursuant to 28 U.S.C. § 1446(b), this Notice of Removal has been filed within thirty (30) days after receipt by the College of a copy of the initial pleading setting for the claim for relief.

5. This Court is the proper venue for removal under 28 U.S.C. § 1441(a) because it is the federal district court that embraces the Circuit Court for Washington County, where the State Court Action was filed and is pending.

GROUND FOR REMOVAL

6. The six-count Complaint alleges that the College violated Title IX of the Education Act of 1972, 20 U.S.C. §§ 1681 *et seq.* (“Title IX”); that the College breached a contract between Plaintiff and the College; and claims of negligence and negligence per se related to the College’s Title IX process and procedures.

7. This Court has original jurisdiction over Plaintiff’s federal question claims and supplemental jurisdiction over Plaintiff’s state law claims. *See* 28 U.S.C. § 1331 (declaring that the district courts have original jurisdiction of all civil actions arising under the laws of the United States); 28 U.S.C. § 1367(a) (“[I]n any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy.”).

8. This Court has original jurisdiction over Plaintiff’s federal question claims under Title IX, as these claims arise under the laws of the United States. *See* 28 U.S.C. § 1331.

9. This Court has supplemental jurisdiction over Plaintiff’s state law claims for breach of contract, negligence per se, and negligence, as they are based on the same set of facts as the federal claims and, thus, form part of the same case or controversy as Plaintiff’s Title IX claims. *See* 28 U.S.C. § 1367(a).

10. Accordingly, removal to this Court is proper pursuant to 28 U.S.C. §§ 1331, 1367(a), and 1441(a).

NOTICE TO PLAINTIFF AND STATE COURT

11. Pursuant to 28 U.S.C. § 1446(d), the College, by and through the undersigned counsel, is contemporaneously filing a copy of this Notice of Removal with the Clerk of the Circuit Court of Washington County (the “Notice of Filing of Notice of Removal”). A true and correct copy of the Notice of Filing of Notice of Removal is attached hereto as **Exhibit B**.

12. This Notice of Removal is also being served on Plaintiff’s counsel pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Defendant, Emory & Henry College, hereby removes the State Court Action to the United States District Court for the Western District of Virginia, Abingdon Division, and respectfully requests that this Court assume jurisdiction over this civil action.

DATED: August 25, 2023

EMORY & HENRY COLLEGE

By: /s/ Mary Elizabeth Davis
Mary Elizabeth Davis (VSB No. 41908)
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Counsel for Defendant Emory & Henry College

CERTIFICATE OF SERVICE

I hereby certify that on August 25, 2023, I electronically filed the foregoing with the Clerk of Court via the CM/ECF System which will send notification of such filing to those registered to receive electronic notices via email transmission at the email addresses provided by them, and also sent a copy to counsel for Plaintiff, John Doe, at the address stated below, via electronic mail and U.S. mail, postage prepaid, on August 25, 2023, to:

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Counsel for Plaintiff John Doe

/s/ Mary Elizabeth Davis
Mary Elizabeth Davis